

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference FU 01 P002WO	<div style="display: flex; justify-content: space-between;"> FOR FURTHER ACTION See Form PCT/IPEA/416 </div>	
International application No. PCT/EP2004/005603	International filing date (<i>day/month/year</i>) 25.05.2004	Priority date (<i>day/month/year</i>) 04.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant FUCHS PETROLUB AG		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <div style="margin-left: 20px;"> a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>5</u> sheets, as follows: <div style="margin-left: 20px;"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. </div> </div> <div style="margin-left: 20px;"> b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). </div>
4.	This report contains indications relating to the following items: <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application </div>

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005603

Box No. I	Basis of the report
1.	<p>With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b))</p> <p><input type="checkbox"/> publication of the international application (Rule 12.4)</p> <p><input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p>
2.	<p>With regard to the elements of the international application, this report is based on <i>(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)</i>:</p> <p><input type="checkbox"/> the international application as originally filed/furnished</p> <p><input checked="" type="checkbox"/> the description:</p> <p>pages <u>1-15</u> _____ as originally filed/furnished</p> <p>pages* _____ received by this Authority on _____</p> <p>pages* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the claims:</p> <p>nos. _____ as originally filed/furnished</p> <p>nos.* _____ as amended (together with any statement) under Article 19</p> <p>nos.* <u>1-16</u> received by this Authority on <u>23.08.2005 by fax</u></p> <p>nos.* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the drawings:</p> <p>sheets <u>1/2, 2/2</u> _____ as originally filed/furnished</p> <p>sheets* _____ received by this Authority on _____</p> <p>sheets* _____ received by this Authority on _____</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p>
3.	<p><input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>
4.	<p><input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005603

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-16	YES
	Claims		NO
Inventive step (IS)	Claims	1-16	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-16	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. Reference is made to the following documents:			
D1: US 5,958,780 A D2: US 5,225,679 A			
2. Independent device claim 1			
<p>Document D1 discloses a measuring device for detecting at least one fluorescent and/or light-absorbent indicator contained in a fuel (see column 5, lines 10-14; column 6, lines 12-15), comprising:</p> <p>a measuring section (12) which is formed by a light-permeable material and through which the fuel flows;</p> <p>at least one light source (16), which shines on the measuring section;</p> <p>a light-capturing device (20B), which is hit by the light (28B), which passes through the fuel flowing through the measuring section and/or emanates from the indicator as a result of a fluorescent effect, and which generates a corresponding measuring signal as a function of the strength of the incident light; and</p>			

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005603

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
-----------	---

an evaluation unit (22) for evaluating the measuring signal.

The measuring device is arranged on a line leading away from a storage tank, D1 not specifying what lies at the other end of the line.

Claim 1 is directed to a machine, for example the engine of a motor vehicle, comprising a filler pipe for a service fluid, namely lubricating oil, engine oil or hydraulic fluid, into which a measuring device such as that described in D1 is integrated such that when filling the machine with the surface fluid through the filler tube, said fluid at least partially fills or flows through the measuring section.

It is therefore possible to recognise if the machine is being filled with an unsuitable service fluid or to optimise the change intervals for the surface fluid as a function of the service fluid with which the machine is filled.

D1 does not suggest integrating the device described therein into a machine.

Document D2 discloses a measuring device such as that described in D1, figure 1 clearly showing that the measuring device is arranged on a line that leads from a storage tank to a motor vehicle.

D2 refers exclusively to fuel substances and not

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005603

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
-----------	---

to service fluids such as engine oil. Therefore at best, D2 could prompt a person skilled in the art to integrate the measuring device described therein into the tank of a motor vehicle such that when filling the vehicle with the fuel through the filler tube of the tank, the fuel passes through the measuring section.

D2 does not suggest integrating the measuring device described therein into a machine so as to measure a service fluid, for example into the engine of a motor vehicle.

The machine as per claim 1 is therefore considered novel and inventive (PCT Article 33(2) and (3)).

3. Independent method claim 9

Claim 9 is directed to the use of the device described in claim 1 and is therefore, *mutatis mutandis*, also novel and inventive.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005603

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(iii), the description is inconsistent with the claims.

Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1 and D2 or indicate the relevant prior art disclosed therein.